

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 178

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Thomas C. Taylor

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING A PARTIAL CREDIT AGAINST  
COMPENSATING TAX OWED WITH RESPECT TO ELECTRIC GENERATING  
FACILITIES ON THE NAVAJO NATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new Section 7-29C-3 NMSA 1978 is enacted to  
read:

"7-29C-3. [NEW MATERIAL] INTERGOVERNMENTAL TAX CREDIT--  
COMPENSATING TAX. --

A. A taxpayer who is liable for the payment of the  
compensating tax with respect to the ownership, construction,  
maintenance or operation of a qualified generating facility  
located on Navajo Nation land is entitled to a credit to be  
computed pursuant to this section and to be deducted from the  
payment of the compensating tax otherwise due. The credit

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 provided by this section is intended to reduce the economic  
2 burden caused by the dual Navajo Nation and New Mexico  
3 taxation with respect to that facility and may be referred to  
4 as the "intergovernmental compensating tax credit".

5 B. Subject to the provisions of Subsections C and  
6 D of this section, the intergovernmental compensating tax  
7 credit shall be determined for each reporting period and shall  
8 be an amount equal to eighty-five percent of the compensating  
9 tax due for that reporting period by the taxpayer with respect  
10 to the ownership, construction, maintenance or operation of  
11 the qualified generating facility.

12 C. The aggregate amount of intergovernmental  
13 compensating tax credit that may be claimed with respect to a  
14 qualified generating facility during its construction and  
15 operational life shall not exceed eighty-five million dollars  
16 (\$85,000,000).

17 D. Beginning one year from the date a taxpayer  
18 first claims the intergovernmental compensating tax credit  
19 with respect to a qualified generating facility and annually  
20 thereafter, the taxpayer shall report to the taxation and  
21 revenue department evidence of the cumulative amount of Navajo  
22 Nation taxes it has paid with respect to that facility and the  
23 cumulative amount of intergovernmental compensating tax credit  
24 it has claimed with respect to that facility. If the  
25 department determines that as of December 31, 2020, or as of

underscored material = new  
[bracketed material] = delete

1 December 31 of any subsequent year, all taxpayers have  
2 claimed, with respect to that facility, a greater cumulative  
3 amount in intergovernmental compensating tax credits than all  
4 taxpayers have paid, with respect to that facility, in  
5 cumulative Navajo Nation taxes, the taxpayer who has made the  
6 greatest cumulative claim for intergovernmental compensating  
7 tax credits, as determined by the department, shall be  
8 obligated to remit the difference to the department on or  
9 before December 31 of the following year, without interest or  
10 penalty. In addition, no taxpayer shall thereafter be  
11 entitled to claim the intergovernmental compensating tax  
12 credit with respect to that facility.

13 E. The burden of showing entitlement to the  
14 intergovernmental compensating tax credit is on the taxpayer  
15 claiming it. The taxpayer shall furnish, in the manner  
16 determined by the taxation and revenue department, proof of  
17 payment of any Navajo Nation taxes it has paid with respect to  
18 the qualified generating facility and any other information  
19 the department deems necessary to administer the credit.

20 F. The taxation and revenue department shall  
21 administer and interpret the provisions of this section in  
22 accordance with the provisions of the Tax Administration Act.

23 G. For the purposes of this section:

24 (1) "Navajo Nation land" means land in New  
25 Mexico that on July 1, 2007, was located within the exterior

underscored material = new  
[bracketed material] = delete

1 boundaries of the Navajo Nation reservation;

2 (2) "Navajo Nation taxes" means the sum of:

3 (a) the amount of possessory interest  
4 tax, business activity tax and ad valorem tax imposed by the  
5 Navajo Nation with respect to the qualified generating  
6 facility and paid by the taxpayer; and

7 (b) the amount paid by the taxpayer  
8 pursuant to an agreement under which the Navajo Nation grants  
9 the taxpayer an exemption from taxation with respect to the  
10 qualified generating facility in exchange for annual payments;  
11 and

12 (3) "qualified generating facility" means a  
13 coal-fired electric generating facility, the construction of  
14 which commences after January 1, 2007 but no later than  
15 December 31, 2008. "

16 Section 2. EFFECTIVE DATE. --The effective date of the  
17 provisions of this act is July 1, 2007.